

XIII. Section 75 (a), Forest Officers.

A. POSITION—concluded.

The term "departmental finance" used in Government Resolution No. 7107, dated 6th September 1892, should be understood as including only matters relating to forest accounts and purely account transactions.*

Definition of the term
"departmental finance."

327. It should be distinctly understood that the Collector and Magistrate has the same power at all times to order an investigation into alleged misconduct on the part of Forest Officials, as he has in the case of Police, and Revenue establishment, and he can entrust the enquiry to any District Officer whom he may select.†

Powers of Collector to
order an investigation into
misconduct of Forest
Officials.

328. When a Mahalkari or Chief Constable or any Revenue or Police Officer of higher rank camps in the limits of a forest village, or "in the limits of a forest beat or round" the Forest Guard shall report himself to such officers and bring his diary with him for inspection. The Forest Guard need not report himself more than once to the same officer in one season, but should present himself on other occasions if sent for.

When an officer named above inspects forests in charge of a Beat Guard, the Guard should, if possible, attend such officer on his visit.‡

B. Powers.

i. Powers under the Forest Act, VII of 1878, as modified up to the 1st July 1890.

Powers of Conservators and Deputy Conservators in charge of Circles under the Forest Act.

329. The Conservators and Deputy Conservators in charge of Circles are delegated powers under section 16 of the Indian Forest Act, No. VII of 1878.§

Powers of Conservators, Deputy, Assistant, Extra-Deputy and Extra-Assistant Conservators under the Forest Act.

330. Conservators, Deputy, Assistant, Extra-Deputy and Extra-Assistant Conservators are delegated powers under sections 20, 46, 55, 56, 67 and 71 of the Indian Forest Act, No. VII of 1878.§

331. Rangers and Foresters in charge of Ranges and Foresters.

are delegated powers under sections 55 and 56 of the Indian Forest Act, No. VII of 1878.§

Powers of Conservators and Deputy Conservators in charge of Circles and all Divisional Forest Officers.

332. Conservators, Deputy Conservators in charge of Circles and all Divisional Forest Officers are delegated powers under sections 24, 25 (c), 33, 36, 37, 38, 47, 50, 60 and 82 of the Indian Forest Act, No. VII of 1878.§

* Government Resolution No. 805, dated 28th January 1893.

† Government Resolution No. 650, dated 26th January 1891.

‡ Government Resolution No. 7107, dated 6th September 1892.

§ Government Resolution No. 21, dated 6th January 1903.

|| Government Notification No. 1152, dated 19th February 1903.

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Add the following clause :—

Power under Section 71 (c) of the Forest Act to issue a search warrant will be delegated by Government to selected rangers by name. Such power has been delegated to certain rangers in the Presidency.

Add the following to foot-note ' § ' :—

and Government Orders, R. D., Nos. 230, dated 8th January 1915 and 5257, dated 11th May 1915.

Insert the following new sections in their proper places :—

335a. In exercise of the powers conferred by section 2 of the Indian Forest Act, 1878 (VII of 1878), the Governor in Council is pleased to appoint in virtue of their offices all Assistant or Deputy Collectors in charge of one or more talukas, Mamlatdars, Mahalkaris, circle inspectors, village accountants and revenue or police patels in the Bombay Presidency excluding Sind to be forest officers for the purposes of Sections 52, 63 and 64 of the said Act, and of rule 14 of the rules under Section 41 of the said Act, for regulating the transit of timber and other forest produce, published in Government Notification in the Revenue Department, No. 4133, dated the 9th August 1880, with respect to such forests as may from time to time within the limits of their respective charges be under the management of the Revenue or Forest Department. §

335b. In exercise of the powers conferred by section 2 of the Indian Forest Act, 1878 (VII of 1878), the Governor in Council is pleased to appoint in virtue of their offices all Assistant or Deputy Collectors in charge of one or more talukas, Mukhtiarkars, Mahalkaris, Supervising Tapedars and Tapedars in Sind to be forest officers for the purposes of Sections 52, 63 and 64 of the said Act, and of rule 5 in Appendix B to the rules under Section 41 of the said Act, for regulating the transit of timber and other forest produce, published in Government Notification in the Revenue Department, No. 4133, dated the 9th August 1880, as amended by Government Notification No. 6907, dated 6th June 1917, with respect to such forests as may from time to time within the limits of their respective charges be under the management of the Revenue or Forest Department. ||

Add the following to the foot-note :—

§ Government Order, R. D., No. 9479, dated 2nd October 1916.

|| Government Order, R. D., No. 6908, dated 6th June 1917.

XIII. Section 75 (a), Forest Officers.

B. POWERS—*continued*.

Powers of Conservators, Deputy, Assistant, Extra-Deputy and Extra-Assistant Conservators, Rangers, Foresters and Forest Guards.

333. Conservators, Deputy, Assistant, Extra-Deputy* and Extra-Assistant Conservators, Rangers, Foresters and Forest Guards are delegated powers under sections 44, 45, 52, 63, 64, 69 and 78 of the Indian Forest Act of 1878.†

334. The Governor in Council is also pleased to declare that the Collector in each district in the Presidency, including Sind, shall be "the duly authorized officer" mentioned in section 24 of the Indian Forest Act of 1878. with whose previous sanction the Forest Officer should exercise the power under section 24 of the Indian Forest Act, to stop ways and water-courses in reserved forest.‡

Powers of Revenue Officers when in charge of Forests.

335. In exercise of the powers conferred by sections 2, 60 and 67 of the Indian Forest Act, 1878 (VII of 1878), the Governor in Council is pleased :—

(a) to appoint in virtue of their offices, all Assistant and Deputy Collectors in the Bombay Presidency (excluding Sind) and all Mámlatdárs and Mahálkaris to be Forest Officers for all the purposes of the said Act, with respect to such reserved or protected forests as may from time to time within the limits of their respective charges be under the management of the Revenue Department ;

(b) subject to the provisions of sub-section (3) of section 67 of the said Act, to invest such officers, in virtue of their offices, with the powers specified in section 67 of the said Act, with respect to such forests ; and

(c) to invest all Collectors in the Bombay Presidency including Sind with the powers specified in section 60 of the said Act.‡

336. His Excellency the Governor in Council is pleased, under section 2 of the Indian Forest Act, No. VII of 1878, as amended by Act V of 1890, to appoint the officer for the time being in charge of the Remount-rearing Dépôt at Ahmednagar to be a Forest Officer, and under section 75 of the same Act, is pleased to appoint the said officer to do all acts and exercise all powers that are prescribed by that Act or by rules made under it to be done by a Forest Officer or by any Forest Officer : such powers to be exercised in respect of the reserved forest known as the "Narayan Dev" Kuran in the Ahmednagar District.

Appointment of the Officer in charge of the Remount-rearing Dépôt at Ahmednagar to be a Forest Officer.

* Government Notification No. 1152, dated 19th February 1903.

† Government Resolution No. 21, dated 6th January 1903.

‡ Government Notification No. 6308, dated 3rd August 1905.

XIII. Section 75 (a), Forest Officers.**B. POWERS—continued.**

337. In the same way His Excellency the Governor in Council is pleased, under the same Act and section and in the same way, to appoint the Executive Commissariat Officer, Ahmednagar, to be a Forest Officer with powers to be exercised in respect of the Reserved Forest Kurans in the Nagar Taluka of the Ahmednagar District, specified below, which have been assigned for the use of the Commissariat Department :—

i Sussawadi, 2 Kapurwadi, 3 Shendi, 4 Manjursumba, 5 Ghospuri.

ii. Powers under the Arms Act, XI of 1878.

338. Officers of the Forest Department below the grade of Extra-Assistant Conservator but on Rs. 20 and over are under clause 3 of paragraph 1 of the Government of India's Notification No. 518 of 6th March 1879 as amended exempt from a license in respect of one gun or one rifle and one sword, and all other subordinate Forest Officers on less than Rs. 20 a month, such arms as they may be authorized to carry by the Conservator.*

339. As regards officers of lower grades in the Forest Department, the District Magistrates should be desired to issue to them, free of charge, licenses to go armed with swords, spears, or any weapon other than fire-arms.†

340. Under section 13 of the Indian Arms Act (XI of 1878) His Excellency the Governor in Council is pleased to invest Conservators, Deputy, Assistant, Extra-Deputy and Extra-Assistant Conservators, Rangers, Foresters and Forest Guards in the Presidency, including Sind, with power to disarm persons going armed without a license, or in contravention of its provisions.‡

NOTE.—Section 13 of the Indian Arms Act (XI of 1878) relates to "Prohibition of going armed without license and the disarming of such persons by persons empowered to do so by the Local Government."

iii. Powers under the Abkari Act, V of 1878.

341. Forest Officers are invested with the following powers under the A'bkari Act of 1878 :—

Conservators, Deputy, Assistant, Extra-Deputy and Extra-Assistant Conservators, Forest Rangers and Foresters with powers under sections 36 and 37. Forest Guards with powers under section 37.§

NOTE.—Section 36 of the A'bkari Act relates to "power to enter and inspect places of manufacture and sale, and to enter, seize and arrest, on information that liquor, etc., is unlawfully kept in any enclosed place." Section 37 relates to "power to seize liquor, etc., in open places, during transit and to detain, search and arrest persons against whom there is reasonable suspicion."

* Government Resolution No. 7899, dated 27th November 1894.

† Government Resolutions No. 5160, dated 22nd July 1885; and No. 5135, dated 28th July 1891.

‡ Government Notification No. 6714, dated 7th November 1879; and Government Resolution No. 9355, dated 2nd November 1892.

§ Government Resolutions No. 4510, dated 27th August 1879; and No. 9355, dated 2nd November 1892.

XIII. Section 75 (a), Forest Officers.

B. POWERS—concluded.

iv. Powers under the Cattle Trespass Act, I of 1871.

342. Under section 69 of the Indian Forest Act, Conservators, Deputy, Assistant, Extra-Deputy, Extra-Assistant Conservators, Rangers, Foresters and Forest Guards may impound cattle grazing in lawfully closed reserved forests.* Cattle grazing in such areas shall be deemed to be doing damage to a "public plantation" within the meaning of the 11th section of the Cattle Trespass Act, 1871.

Note.—For rules applying to cattle trespass, read sections 286, 287 and 317, Standing Orders, Forests.

v. Powers under the Sea Customs Act, VIII of 1878.

343. For rules relating to transit of forest produce by sea, read sections 298 to 300, Standing Orders, Forests.

vi. Powers under the Oaths Act, X of 1873.

344. Forest Officers, who are vested with powers provided in section 71 of the Indian Forest Act of 1878 (read section 337, Standing Orders, Forests), have authority under section 4 of the Indian Oaths Act, No. X of 1873.†

345. Under section 4 of the Oaths Act, No. X of 1873, a person, who has by law authority to receive evidence, may administer an oath or affirmation in the discharge of the duties or in exercise of the powers imposed or conferred on him by law. A Forest Officer has no power to take evidence in a case of embezzlement and is not therefore authorized to administer an oath in such a case.‡

346. (i) The form of summons for witnesses and for the production of documents given at No. 126 of the 4th Schedule of the Civil Procedure Code may be used "*mutatis mutandis*," the necessary corrections in the printed form being made by hand.§

(ii) The form of search warrant used by Magistrates, given in page 57 of the High Court Circular Orders, may be used, a few corrections that can easily be made by hand being all that is required.§

(iii) Printed forms for deposition of witnesses as used by Magistrates can be used by Divisional Forest Officers, if necessary.§

* Government Resolution No. 21, dated 6th January 1903.

† L. R. No. 1360, dated 1st November 1879, *vide* Government Resolutions No. 5990, dated 8th November 1879; and No. 6971, dated 28th August 1885.

‡ Government Resolution No. 7503, dated 26th October 1882

§ Government Resolution No. 5990, dated 8th November 1879.

XIV. Section 75 (b), Rewards.

XIV. SECTION 75 (b), REWARDS.

347. In exercise of the power conferred by section 75 of the Indian Forest Act, 1878, the Governor in Council is pleased to make the following subsidiary rules:—

Rule 1.—One-half of the proceeds of fines and confiscations under the Act may be paid by way of reward to the officers and informers through whose instrumentality the conviction was obtained, or the property liable to confiscation was discovered. Provided that the Magistrate who tries any case under the Act may, if he thinks fit, direct that a larger amount than one-half shall be so paid.

Rule 2.—When more persons than one are entitled to the reward under this rule, the Conservator of Forests, or any Deputy or Extra-Deputy Conservator of Forests especially empowered by him in this behalf, or, in the case of those reserved or protected forests in the Presidency proper lying within

the territorial limits of his revenue jurisdiction, which have been classed as pasture or fodder reserve and handed over to the Revenue Department for management, the Collector of the District shall determine the proportions in which it shall be divided amongst them.*

348. The Conservator is authorized to grant rewards in forest cases, when the punishment consists of imprisonment only, up to a limit of Rs. 50 and to delegate this authority up to a limit of Rs. 10 to any Deputy or Extra-Deputy Conservator of 10 or more years' standing.

Powers of Forest Officers to grant rewards in cases resulting in imprisonment.

To enable him to exercise due check over such proceedings, the Conservator may require the submission of a monthly statement showing the details of cases in which Deputy Conservators have exercised this power.†

349. The words "fines and confiscations" appearing in Rule 1 of the rules published under Government Notification No. 5587, dated 18th October 1879 (see preceding section), do not include compensation for damage done to forest property.‡

Rewards cannot be granted from compensation monies.

350. The order of the trying Magistrate is not necessary under Rule 1 of the rules under section 75 of the Forest Act, 1878, to enable a reward to be granted; it is only required to allow a reward in excess of one-half of the proceeds of the fines and confiscations in a case to be given.§

Magistrate's sanction only necessary if amount of reward exceeds one-half.

* Government Resolutions No. 7339, dated 11th September 1905; and No. 2448, dated 7th March 1908.

† Government Resolution No. 5341, dated 28th May 1908.

‡ Government Resolution No. 3191, dated 15th May 1882.

§ Government Resolution No. 3827, dated 12th June 1888.

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with fine and confiscation, rewards
fine and confiscation."

dated 26th September 1213, Revenue

XIV. Section 75 (b), Rewards.

351. It was intended by Rule 1 of the rules under section 75 of the Indian Forest Act for the grant of rewards to the officers and

The Magistracy should be confined to directing when over one-half should be paid.

The Conservator should distribute the amount.

distribution and apportionment of the rewards should be left to the Conservators of Forests.*

An informer should not lose a reward he deserves on account of other faults.

352. If an officer has been instrumental in obtaining a conviction or discovering property, he should not lose the reward because he is deserving of a penalty on some other ground.†

XV. SECTION 75 (c), TREES, THE PROPERTY OF GOVERNMENT
BUT NOT GROWING IN RESERVED OR PROTECTED FORESTS.

A. Extract from Land Revenue Code, 1879, regarding Trees.

Extract from the Land Revenue Code, paragraphs 40 to 44 inclusive, dealing with the preservation, reproduction and disposal of trees belonging to Government but not grown in reserved or protected forests.

353. The following paragraphs 40 to 44 inclusive are taken from the Land Revenue Code and deal with the preservation, reproduction and disposal of trees and timber belonging to Government, but growing on lands not included in reserved or protected forests :—

Section 40.—In villages of which the original survey settlement has been

completed before the passing of this Act, the right of Government to all trees in unalienated land, except trees reserved by the Government or by any survey officer whether by express order made at or about the time of such settlement, or by notification made and published at

or at any time after such settlement, shall be deemed to have been conceded to the occupant. But in the case of settlements completed before the passing of Bombay Act I of 1865, this provision shall not apply to teak, blackwood or sandalwood trees. The right of Government to such trees shall not be deemed to have been conceded except by clear and express words to that effect.

In the case of villages or portions of villages of which the original survey settlement shall be completed after the passing of this

Act the right of Government to all trees in unalienated land shall be deemed to be conceded to the occupant of

such land except in so far any such rights may be reserved by Government, or by any survey officer on behalf of Government, either

* Government Resolution No. 7717, dated 28th October 1893.

† Government Resolution No. 3502, dated 10th May 1897.